

**BEFORE THE STATE BOARD OF MEDIATION  
STATE OF MISSOURI**

PROFESSIONAL FIREFIGHTERS ASSOCIATION,	)	
LOCAL 2618 OF THE INTERNATIONAL	)	
ASSOCIATION OF FIREFIGHTERS,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Public Case No. 78-011
	)	
THE CITY OF JOPLIN, MISSOURI,	)	
	)	
Respondent.	)	

**FINDINGS OF FACT**  
**CONCLUSIONS OF LAW AND DECISION**

**FINDINGS OF FACT**

This case appears before the State Board of Mediation upon Professional Fire Fighters Association, Local 2618 of the International Association of Fire Fighters (hereinafter referred to as "Petitioner"), filing a petition for the determination of an appropriate bargaining unit and majority representative status for all Fire Department employees of the Joplin Fire Department, City of Joplin, Missouri (hereinafter referred to as "City"), inclusive of the ranks of the Fire Fighter, Drivers, Driver-Mechanics, Lieutenants, Training Officers, Captains and Fire Inspectors; all of which constitute approximately sixty-eight (68) employees. But excluding the ranks of Chief and Assistant Chief and any Civilian Employees.

The State Board of Mediation has jurisdiction to hear and decide this matter pursuant to Section 105.525 RSMo. 1969, which provides in pertinent part:

"Issues with respect to appropriateness of bargaining units majority representative status shall be resolved by the state board of mediation."

A hearing in this case was conducted by the Chairman of the State Board of Mediation by agreement of the parties (the transcript will be sent to one employee

member and one employer member), in the City Council Chambers of the Joplin City Hall, Joplin, Missouri on November 22, 1978 at which time the following evidence was adduced.

The parties are in agreement that a unit of fire fighters is an appropriate unit. The parties, likewise are in agreement that the Chief and Assistant Chief of the Fire Department should be excluded from the unit. The petitioner seeks to include three (3) Captains and nine (9) Lieutenants in the unit. The respondent takes the position that these twelve (12) employees should be excluded as supervisors. The inclusion or exclusion of the Captains and Lieutenants is the sole issue presented to the Board.

The City has four fire houses. Number One Station or the Central Station is located within City Hall; Stations Number 2, 3, and 4 are in effect "Satellite" fire houses and are located in various parts of the City. A Captain, four Drivers and three Fire Fighters are at Station Number One. Station Number Two, consists of one Lieutenant, two Drivers and three Fire Fighters. Station Number Three and Four each consist of one Lieutenant, one Driver and one Fire Fighter. Since there are three different shifts, one Captain is assigned to each of the three shifts, at the Central Station, and one Lieutenant is assigned to each shift at the "Satellite" fire houses. The shifts are arranged so that each member works one day for twenty-four hours and then is off two days.

A description of Both positions in dispute is set forth in separate paragraphs in this opinion.

#### Captain

The position of Fire Captain, of which there are presently three (3) is in charge of the activities of a company of Fire Fighters comprised of seven (7) men. It is his responsibility to supervise and motivate the men in his company in all aspects of their

jobs. It is his responsibility to insure that all appropriations and equipment to which he is assigned is in top condition, and that the house and quarters be kept clean and orderly. He leads his company at the fire scene. In addition he handles the administrative duties which include keeping a daily log, preparing various schedules, making fire reports and rating the men. He also has the responsibility of instructing his men in various aspects of the fire fighting profession, this includes working a twenty-four hour shift and living in the fire house during his duty hours with the other men.

#### Lieutenant

Lieutenants supervise the outlying fire Stations Number 2, 3, and 4 and have the same duties and authority as the Captains, and are subject to the same rules and regulations.

### **CONCLUSIONS OF LAW**

Section 105.525 RSMo. 1969 states:

"Issues with respect to appropriateness of bargaining units and majority representative status shall be resolved by the state board of mediation..."

Appropriate unit is defined in Section 105.500 (1) RSMo. 1969 as:

"... a unit of employees at any plant or installation or in a craft or in a function of a public body which establishes a clear and identifiable community of interest among the employees concerned."

It is the position of this Board that supervisors cannot be included in the same bargaining unit as the employees whom they supervise, because of a lack of community of interest. Therefore, it is necessary to make a determination as to the positions which possess supervisory qualities. In the case of Western Missouri Public Employees, Local 1812 and Missouri State Council 72, AFSCME vs. Jackson County, Missouri (Department of Corrections), Public Case No. 90, and St. Louis Fire Fighters Association, Local 73, IAFF, AFL-CIO vs. City of St. Louis, Missouri, Public Case No.

76-013, this Board set forth the factors which are considered in determining whether an employee is a supervisor. They are as follows:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees.
2. The authority to direct and assign the work force.
3. The number of employees supervised, and the number of other persons exercising greater, similar or lesser authority over the same employees.
4. The level of pay, including an evaluation of whether the supervisor is paid for his skill or for this supervision of employees.
5. Whether the supervisor is primarily supervising an activity or is primarily supervising employees.
6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees.
7. The amount of independent judgment and discretion exercised in the supervision of employees.

#### Captain

The position of Captain, in this instance, is most difficult to categorize. The evidence shows that reports prepared by the Captain concerning the performance of a fire fighter, are considered by the Fire Chief in evaluating an individual's likelihood for promotion, transfer, or dismissal. In addition, the Captain is responsible for the enforcement of all departmental policy. These Practices argue strongly in favor of the exclusion of the Captain from an appropriate unit.

On the other hand, the Captain, although he has the authority to direct the work force, is also responsible for the activities of three Fire Fighters and four Drivers. During a twenty-four hour period, these eight men occupy a fire house in which they work, eat and sleep. When an alarm sounds, they perform their fire duties as a unit. The evidence persuades this Board to believe that a Captain functions as a working foreman

rather than a distinct supervisor. Upon careful consideration of all factors, which would include the geographical positions of the fire houses within the District, it is the opinion of this Board, the Captain has a clear and identifiable community of interest with the position of Fire Fighter and should be included in an appropriate unit.

#### Lieutenant

The position of Lieutenant is next in command from the Captain and has the same authority and duties as a Captain and is subject to the same rules, regulations and privileges as a Captain. Therefore, the reasoning which was applicable to the position of Captain would also pertain to Lieutenants and they would be included in an appropriate unit.

#### DECISION

It is the decision of this Board that the following unit in the Fire Department, City of Joplin is appropriate:

All employees of the Joplin Fire Department including the positions of Fire Fighter (Private), Lieutenant and Captain, but excluding the Assistant Fire Chief and Fire Chief.

#### DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation among the employees in the unit found appropriate, as early as possible, but not later than forty-five (45) days from the date below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period, because they were out ill or on vacation. Ineligible to vote are employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election date. Those eligible shall vote whether (or not) they desire to be represented for the purpose

of exclusive recognition by Professional Fire Fighters Association, Local 2618 of the International Association of Fire Fighters.

It is hereby ordered that the District shall submit to the Chairman of the State Board of Mediation, as well as to the Petitioner within seven (7) days form the date of receipt of this decision, an alphabetical list of the employees in the unit determined above to be appropriate who were employed during the designated payroll period.

Dated this 23rd day of January, 1979.

MISSOURI STATE BOARD OF MEDIATION

(SEAL)

/s/ Conrad L. Berry  
Conrad L. Berry, Chairman

/s/ Stanley W. Cox  
Stanley W. Cox, Employer Member

/s/ Robert Missey  
Robert Missey, Employer Member